

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TN, JACKSON

JEFFERY G DOUGLAS

Plaintiff

vs.

Docket Number: 1:11-cv-1219-JDT-egb

Jennifer Plunk ET AL.

Defendants

TORTS and DAMAGES

COMES NOW, the Plaintiff, **Jeffery Gaylon Douglas**, pursuant **Tenn. Rules of Court, Preliminary Proceedings, Rule 3 and 4** in the above style cause filed **July 22, 2011**.

Therefore, this cause of action charges Defendants with foresaid torts of malicious prosecution and/or extortion.

In support of this **Tort and Damage** claim, the Plaintiff will submit the follow facts:

1. Plaintiff avers paragraphs One (1) through Five (5) of the **Civil Action** file in the above cause.

2. The herein-named Defendant's have been guilty of the following wrongs, all which proximately have resulted in torts to Plaintiff:

A. In knowingly or negligently represented malicious prosecution

B. In knowingly or negligently failure to disclose the truth.

C. This complaint is alleging that Plaintiff has been "**emotionally harmed**" by defendants mistaken attempt of '**extortion**' under **T.C.A. § 39-14-112(a)**, and **3 and 4**.

Therefore, in fact, a criminal action and good cause for action for intentional or reckless infliction of emotional distress by means of extreme and/or outrageous conduct.

D. The fact that Plaintiff **did not** posse the knowledge, which is admittedly, is the possession by those of an attorney. The alleged Plaintiff **did not in fact commit** the alleged allegation. **Therefore**, would be a matter of defense action for damages for intentional infliction of **emotional harm** or **emotional distress**; such knowledge of one would be imputed to corporate entity.

E. Therefore if liability imposed upon the Plaintiff whereas the evidence presented **was mere** and/or **insufficient**. Then one should be liable who by means of extreme and/or outrageous tactics willfully and/or recklessly inflicts mental and emotional injury, humiliation and/or shock upon another.

F. Standards applicable to torts of outrageous conduct, **i.e.** extreme and/or outrageous and not tolerated in civilized society are like **"negligence"** and other variable standards which, are based upon common sense of the community, primarily for application by the jury.

G. Plaintiff avers this action to recover

1. Punitive, and/or
2. Exemplary, and/or
3. Compensatory, and/or
4. Nominal Damages

H. Plaintiff avers this action for the intentional alleged infliction

- a. Emotional Distress, and/or
- b. Psychological Injuries, and/or
- c. Intangible, and/or
- d. Loss of Society Damages and/or
- e. Actual Damages.

I. Plaintiff avers paragraphs Seven (7), Eight (8), and Nine (9) of the **Civil Action** file in the above cause.

3. Punitive damages may, in discretion of trier of facts, be awarded in cases seeking recovery for outrageous conduct.

Moorehead v. J.C. Penney Company Inc., 555 S.W.2d 713

4. There are three essential elements to cause of action for outrageous conduct

1. Conduct must be intentional or reckless, and/or
2. Must be so outrageous that it is not tolerated by civilized society, and/or
3. Must result in serious injury.

5. Liability for mental distress damages extends to mere insults, indignities, threats, annoyances, petty oppression, or other trivialities.

6. Intentional infliction of emotional distress and outrageous conduct are two (2) separate torts for same cause of action for liability damages and torts.

7. Plaintiff avers paragraphs Ten (10), Fourteen (14), and Fifteen (15) of the **Civil Action** file in the above cause.

8. Plaintiff avers paragraph eleven (11) of the **Civil Action** file in the above cause

9. Give notice of any motion thereafter made by defendant or court to dismiss the complaint and grounds therefore.

10. Give opportunity to submit a written memorandum in opposition to such motion

11. Give notice in case of dismissal, a statement of grounds therefore.

12. Give opportunity to amend the complaint to overcome the deficiency unless it clearly appears from the complaint that the deficiency can not be over come by amendment.

Noll v. Carlson, 809 F.2d 1446 (9th Cir. 1987)

13. Plaintiff be allowed some degree of flexibility in pleading his action and be ensured meaningful access to the courts.

Boguslavsky v. Kaplan, 159 F.3d 715 (2nd Cir. 1998)

Randle v. Rowland, 154 F.3d 952 (9th Cir. 1998)

14. That this Honorable Court incorporates this Torts and Damages and its additional issues listed herein

15. That this Honorable Court **GRANT** any other relief Honorable Court deems applicable and/or necessary.

Wherefore, Supreme Court has recently quoted the United States Supreme Court to effect that, **"It is well established that 'a complaint should not be dismissed' for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove no set facts in support of his claim that would entitle Plaintiff relief.**

Fuerst v. Methodist hospital South (1978 Tenn.) 566 S.W.2d 847, 848

Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 101-102, 2 L.Ed.2d 90 (1957))

Therefore, in scrutinizing the complaint in the face of a **12.02(6)** motion, "the Court should construed the complaint liberally in favor of the Plaintiff, taking all of the allegations of facts therein true."

Huckeby v. Spangler (1975 Tenn.) 521 S.W.2d 568, 571.

Therefore, applying these rules in the instant case, Plaintiff has a complaint, which charges all Defendants' with Malicious Prosecution and/or Extortion by concealment of information regarding said Plaintiff.

Wherefore, in view, the complaint sufficiently charges **Malicious Prosecution, Extortion and Concealment**, and minimally sets forth the facts as required by **T.R.C.P. Rule 9.02**.

Whereas, true, the rule does not actually employ the words "Malicious Prosecution or Extortion," but therefore states Malice and such is unnecessary as "Extortion and Malicious Prosecution" is a legal conclusion drawn from its own set facts.

Pursuant to FRCP C(4), FRCP 8(a)(3) is filed in case number **1:11-cv-1219-JDT-egb**, **42 U.S.C. § 1983, page 3(VI)**, which was filed **July 22nd, 2011** in U.S. District Court, Western District of Tennessee by Judge James D. Todd, case name **Douglas v. Plunk ET AL.**

PLAINTIFF VERIFICATION

I, **Jeffery Gaylon Douglas**, certify under penalty of perjury that the above statement is true and correct to the best of my knowledge, information, and belief.

Respectfully Submitted

Jeffery G. Douglas 2/1/12

Jeffery Gaylon Douglas, 467106

Northwest Correctional Complex

960 State Route 212

Tiptonville, TN. 38079